UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

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§	NO. 3:07-cv-02036-M
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	on

MOTION TO SEAL COURT RECORDS <u>AND MEMORANDUM IN SUPPORT</u>

Defendants ask the court to seal the Court's record in the interest of justice.

A. INTRODUCTION

- 1. Plaintiff is Eximanda Baxter. Defendants are Broome Bobo, LLP, Stanley D. Broome, Matthew W. Bobo and Howie, Broome & Bobo, LLP.
- 2. Plaintiff Eximanda Baxter sued Defendants for failure to pay wages in compliance with the FLSA, sexual assault, offensive physical conduct, false imprisonment, and intentional infliction of emotional distress. Defendants at all times denied (and continue to deny) these allegations, had previously sued the Plaintiff for defamation, and made other counter-allegations.
- 3. On May 20, 2008 the Court dismissed the Plaintiff's state law claims without prejudice to their being reasserted in state court which they later were. (Doc. 23). On January 30, 2009 this Court granted the Plaintiff's motion to dismiss the remaining FLSA claim without prejudice to assertion in state court which it later was. (Doc. 42).
 - 4. An Agreed Take Nothing Judgment has now been rendered by the State Court, and all

matters between the parties have been concluded.

5. Defendants, with the agreement of Plaintiff (except as to the form of this motion and the form of the proposed Order), ask the Court to seal all records related to this case because of the salacious and unproven allegations contained in the record. Both parties believe that justice would be served by the court sealing the record in this case.

B. ARGUMENT

- 6. Every court has supervisory power over its own records and files. *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 597-98, 98 S. Ct. 1306, 1312, 55 L.Ed. 2d 570 (1978). A motion relating to access to the court's files can be considered long after the merits of the underlying litigation have been resolved. *Macias v. Aaron Rents, Inc. et. al.*,288 Fed. Appx., 913 (5th Cir. Tex.2008).
- 7. The court may seal court records if the interests favoring nondisclosure in a particular case outweigh the presumption in favor of the public's common-law right of access to judicial records. *United States v. Amodeo*, 44 F.3d 141, 146-47 (2d Cir. 1995); *see Nixon v. Warner Commc'ns*, *Inc.*, 435 U.S. 589, 597-98, 98 S. Ct. 1306, 1312, 55 L.Ed. 2d 570 (1978).
- 8. The court should seal the entire record in this case because the records may be used to gratify public spite or promote public scandal. *Nixon*, 435 U.S. at 598, 98 S. Ct. at 1312. In addition, the records may be used for libelous statements in the press. *Nixon*, 435 U.S. at 598, 98 S. Ct. at 1312. The records may be used to harm Defendants' competitive business standing. *Nixon*, 435 U.S. at 598, 98 S. Ct. at 1312.

C. CONCLUSION

9. For these reasons, Defendants, with the agreement of the Plaintiff except as to form, ask

the Court to seal the entire record in this matter.

Respectfully submitted,

By: s/Stan Broome
Stanley D. Broome
State Bar No. 24029457
Matthew W. Bobo
State Bar No. 24006860

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ATTORNEYS FOR ALL DEFENDANTS

CERTIFICATE OF CONFERENCE

I hereby certify that a conference was held on this Motion between myself and counsel for Plaintiffs in this action. Plaintiff is unopposed to sealing the entire court record, but the parties could not reach agreement on the form of the Motion or Order.

<u>s/Stan Broome</u> Stan Broome

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served upon counsel for all parties via ECF and/or certified mail, return receipt requested on this the 13th, day of April 2009.

<u>s/Stan Broome</u> Stan Broome